



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

11201 Renner Boulevard
Lenexa, Kansas 66219

24 FEB 2017

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Article No.: 7014 1200 0000 6127 4614

Mr. Robert Livermore
Public Works Director
125 E. 26th Street
South Sioux City, Nebraska 68776

Re: Request for Information Pursuant to Section 308 of the Clean Water Act
(33 U.S.C. § 1318)

IMMEDIATE ATTENTION REQUIRED
Response Due Within 14 Days of Receipt

Dear Mr. Livermore:

The U.S. Environmental Protection Agency, Region 7, has reviewed information submitted by the City in response to the EPA's November 23, 2016, Information Request. By this letter, we are asking for clarification regarding some of the City's earlier responses, as well as information regarding releases from the City's force main the week of February 6, 2017.

This letter, with its enclosures, is issued pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a). Section 308(a) of the CWA authorizes the EPA to require any person subject to the CWA to provide information required to carry out the objectives of the CWA, including to determine whether there has been a violation of the CWA. Pursuant to Section 308, you are required to provide the information identified in the enclosed Information Request (Enclosure 1). Please read the instructions in the enclosure carefully before preparing your response. A signed Statement of Certification (Enclosure 2) must accompany your response.

The information required herein must be submitted notwithstanding any claim you may have concerning confidentiality. If you wish to assert a claim of confidentiality concerning information submitted in response to this letter, you may do so pursuant to the provisions of 33 U.S.C. § 1318 and 18 U.S.C. § 1905, as further described in the enclosed instructions. The EPA will consider and process such a request pursuant to said statutes and the EPA regulations at 40 C.F.R. Part 2, Subpart B.

In addition, if any of the information contains personally identifiable information or PII, it requires specially handling. PII is defined by the EPA as any information about an individual that can be used to distinguish, trace or identify an individual's identity, including personal information which is linked or linkable to an individual (e.g., name, date of birth, address). To the extent possible, please exclude or redact the names of any residents from sampling or other data submitted in your response. Please label



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as PII any submittal that you believe may include PII. The EPA will manage and handle any PII in a manner consistent with the agency's PII policy and applicable federal laws, including 40 C.F.R. § 2, Subpart A.

Please be advised that submission of false information may subject you to civil or criminal penalties under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001. Further note that the EPA reserves its right to pursue appropriate enforcement actions under Section 309 of the CWA, 33 U.S.C. § 1319, including penalties, for violations of the CWA.

We appreciate your continued prompt attention to this matter. If you or your staff would like an opportunity to confer, or have any questions relating to this information request, please contact Paul Marshall at (913) 551-7419, or Patricia Miller, the attorney assigned to this matter at (913) 551-7283. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeffery Robichaud', with a large, stylized flourish at the end.

Jeffery Robichaud
Acting Director
Water, Wetlands and Pesticides Division

Enclosures

cc: Rod Koch, Mayor of South Sioux City, Nebraska
Steve Goans, NDEQ

ENCLOSURE 1

INFORMATION REQUEST

Re: City of South Sioux City, Nebraska

This information is requested by the U.S. Environmental Protection Agency pursuant to Section 308 of the Clean Water Act (CWA or Act), 33 U.S.C. § 1318.

I. Instructions

1. Please provide a separate response to each and every request set forth below. Please label each response in a manner that identifies the number of the question or document request.
2. If any answer or document cannot be provided in full, provide the answer or document(s) to the extent possible along with an explanation of why the question cannot be answered or document cannot be provided in its entirety.
3. Certification: The Statement of Certification found in Enclosure 2 must be submitted along with your responses every time a submission is made pursuant to this information request. This statement must be a person authorized to sign reports pursuant to 40 C.F.R. § 122.22(b). For your convenience the text of 40 C.F.R. § 122.22(b) is included on Enclosure 2.
4. Confidential Business Information: If you believe any of the requested information is confidential, you may assert a business confidentiality claim pursuant to the regulations set forth in 40 C.F.R. Part 2, Subpart B. Information requested by this letter, however, must be submitted to the EPA regardless of such a claim of confidentiality. If the EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, the EPA may make the information available to the public without further notice to you.
5. Personally Identifiable Information: If you believe any of the requested information is personally identifiable information, PII, please redact that information or provide a clear statement with your submittal indicating that PII may be present. Information determined to be PII will be withheld and protected in accordance with 40 C.F.R. Part 2, Subpart A, and applicable EPA Privacy Act policies.

II. Definitions

Unless otherwise indicated, all terms used in this request have the meaning and definition as stated in Section 502 of the C.W.A., 33 U.S.C. § 1362, and regulations promulgated thereunder, including 40 C.F.R. §§ 122.2 and 403.3.

III. Submission of Information

Note that except for a cover letter or memorandum and the Statement of Certification, 1) only copies, and not original documents, should be submitted pursuant to this request, and 2) documents and data submitted in electronic form should be in a widely available electronic format such as PDF, Word or Excel.

III. Requested Information

Continued Responses

To the extent practicable, each submittal of information requested herein shall be sent via email to Paul Marshall at the following email addresses:

marshall.paul@epa.gov

Any documents that are not available in electronic format must be submitted to the EPA by mail or express service in a manner that allows you to track delivery and shall be addressed as follows:

**Paul Marshall
Environmental Engineer (WWPD/WENF)
U.S. Environmental Protection Agency Region 7
11201 Renner Blvd.
Lenexa, Kansas 66219**

1. As required in the original November 23, 2016, information request, continued submitting to the EPA all emails, press releases, statements or other written announcements related to the investigation of or response to H₂S from the City's wastewater collection system. Where practicable, the EPA contacts listed above may be added to the City's email distribution lists for this matter. The information requested includes, but is not limited to:
 - a. Daily briefing materials and/or conference call agendas;
 - b. Weekly briefing materials, city council meeting minutes, public announcements, web postings and press announcements; and
 - c. The results of any monitoring, as it becomes available.

Response Within Fourteen (14) Days of Receipt of this Letter

To the extent practicable, each submittal of information requested below shall be sent via email to the EPA via the following email addresses:

Paul Marshall: marshall.paul@epa.gov

Any documents that are not available in electronic format must be submitted to the EPA by mail or express service in a manner that allows you to track delivery and shall be addressed as follows:

Paul Marshall

**Environmental Engineer (WWPD/WENF)
U.S. Environmental Protection Agency Region 7
11201 Renner Blvd.
Lenexa, Kansas 66219**

2. Identify the person to contact regarding your response, including title, address and phone number.
3. Your responses to the questions are to be provided by a qualified professional. Provide the name and credentials of the person(s) providing information in response to this Information Request.
4. Question 4 of the original information request asked for all sampling of H₂S within the City's collection system from January 1, 2016, to the date of your response. We received primarily sampling data conducted by the City's contractor ACS, beginning in early November 2016. There were no H₂S sampling results for the time period from when Big Ox was discharging into the City collection system, beginning on or about September 1, 2016, until November 1, 2016 when Big Ox terminated its discharge to the sewer. If no samples exist for this time period, please provide an affirmative statement that no samples were taken during this time. If samples were taken, please submit them following the guidelines for question 4 of the original request, which is restated below:

Provide the result of all monitoring of H₂S within the wastewater collection system from January 1, 2016, to the date of your response. If available, provide the requested data in spreadsheet format. Such records shall include:

- a. *All daily/hourly monitoring results for H₂S, distinguished by location and time/date, whether taken by the City or its contractor or consultant;*
 - b. *A wastewater collection system map identifying each monitoring location; and*
 - c. *A list of the name and address of each commercial and/or industrial users whose wastewater flow may be present at each monitoring location identified on the sewer map (item b, above), and a description of the user's discharge (e.g., flow, pollutant load).*
5. Question 7 of the original information request asked for copies of correspondence related to H₂S between the City and Big Ox, or any other commercial or industrial user, or between the City and the city of Sioux City, Iowa. In response, the City submitted copies of all emails beginning September 1, 2016. Were there any non-email communications with any of the subject parties? Was there any communication with Big Ox concerning H₂S prior to Big Ox discharging to the City's sewer system? If no records exist, please state affirmatively. Question 7 of the original request is restated below:

Provide copies of correspondence related to H₂S between the City and Big Ox Energy or any other commercial or industrial user, and between the City and the City of Sioux City, Iowa.

6. With regard to releases from the City's force main that occurred during the week of February 6, 2017, please provide the following information regarding each release:

- a. The specific location of the release and a description of the structure from which the release occurred;
- b. The beginning and ending date(s) and time(s) of the release(s), the volume of the release and the pollutant characteristics of the released material;
- c. An explanation of the cause or causes of the release, the steps taken and plan developed to stop the release and any actions to ensure a release does not reoccur;
- d. An explanation of the efforts taken to remediate released material from the impacted area;
- e. Copies of analytical results of any samples taken of the released material. If samples were taken, but analysis has not been completed by the date of your response to this information request, please indicate such and submit a copy of the results as soon as they are available; and
- f. Copies of reports or correspondence documenting the City's notification of the release(s) to the Nebraska Department of Environmental Quality.

ENCLOSURE 2

STATEMENT OF CERTIFICATION

(To be submitted with every response to the Information Request)

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

Signature

Date

Printed Name

Title

40 C.F.R. § 122.22(a). Signatories to permit applications and reports.

(1) **For a corporation.** By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: EPA does not require specific assignments or delegations of authority to responsible corporate officer identified in Sec. 122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under Sec. 122.22(a)(1)(ii) rather than to specific individuals.

(2) **For a partnership or sole proprietorship.** By a general partner or the proprietor, respectively; or

(3) **For a municipality, State, Federal, or other public agency.** By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

